

DEPARTMENT OF ENERGY

Build America, Buy America Act

Buy America Requirement Project-Specific Nonavailability Waiver

Waiver Summary: The United States Department of Energy (DOE) Office of State and Community Energy Programs (SCEP) is issuing a project nonavailability waiver of the manufactured products domestic preference requirements of section 70914 of the Build America, Buy America Act (BABA) included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58) as applied to one federal financial assistance award for the Matchbook Learning Centers. This limited nonavailability waiver allows the Matchbox Learning Centers to purchase non-compliant Heating, Ventilation and Air Conditioning (HVAC) system products including: high-efficiency HVAC rooftop units, Variable Air Volume (VAV) boxes, air handling units (AHU), HVAC variable refrigerant flow (VRF) Heat Recovery Condensing Units, associated ducted and cassette type Fan Coils, and building automation controls.

Duration of the waiver: The effective date of this waiver is from date of issue to December 31, 2024.

Recipient: Matchbook Learning Centers (HSDKWLPIKXC7)

Total estimated project cost related to infrastructure: \$5,320,798

Estimated total cost of products being waived: \$919,545

Funding Mechanics: Funding for the infrastructure project is made available through the 2022 Funding Opportunity Announcement for Energy Improvements at Public K-12 School Facilities – Bipartisan Infrastructure Law (BIL) – Renew America’s Schools. The location of the project is Indianapolis, Indiana.

The infrastructure project includes a total of 20 heating, ventilation and air conditioning systems. Products to be covered by this waiver and used in this project include:

- high-efficiency HVAC rooftop units (NAICS code 333415, manufactured product)
- Variable Air Volume (VAV) boxes (NAICS code 333415, manufactured product)
- air handling units (AHU) (NAICS code 333415, manufactured product)
- HVAC variable refrigerant flow (VRF) Heat Recovery Condensing Units (NAICS code 333415, manufactured product)
- associated ducted and cassette type Fan Coils. (NAICS code 333415, manufactured products)
- building automation controls (NAICS code 334512, manufactured product)

Description of Market research and Justification: Market research was conducted between May through December, 2023 via email correspondence and phone calls with product manufacturers. The market research was conducted by the recipient, Lawrence Berkeley National Laboratory, and DOE’s Schools & Nonprofits Program Team. Manufacturers were not able to comply with BABA requirements

due to the fact that their HVAC systems and components and advanced controls are not fully produced in the USA; however, their products are assembled in the USA with foreign components.

The recipient's market research was not able to yield manufacturers who were able to meet the 55% cost of components requirement for the manufactured products listed above that are required for the project's completion. For the HVAC equipment, the recipient contacted four industry-leading suppliers and found that the proposed manufactured products were not domestically manufactured. One manufacturer noted their products "meets the requirements of FAR 52.225-11 of the Buy American Act." Additional research by DOE found this certification is inapplicable with respect to HVAC systems because it references a section of the FAR that discusses standards for construction materials, which have a different standard than the BABA manufactured products standard. DOE staff reached out to several manufacturers for clarification and either received no response or insufficient information that did not change the finding of nonavailability.

After extensive outreach, no domestic manufacturer was able to provide the materials necessary to meet the BABA requirements for all products specified in this waiver. This project has specific requirements for the building automation system including but not limited to being 100% native BACnet, and being 100% reverse compatible with the manufacturers product line. These requirements are important for the systems total lifetime cost and to meet the owner's energy savings targets. Market research confirmed that due to the lack of USA manufactured computer chips there were no automation controlling units manufactured in the U.S. that provide the specifications the recipient requires for the infrastructure project, that are also BABA compliant.

Impact Absent the waiver: If the waiver were not issued, the Matchbook Learning Centers will have to cancel the efficiency project. By not moving forward with the project the school will be unable to open for the 2024-2025 school year.

Summary of Public Comment: The proposed waiver request was publicly posted by the Department of Energy for comments during the period of April 16 – May 1, 2024. No comments were received from the public, and therefore no substantive changes were made in response. Changes were made to the formatting of this waiver.